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OFFICE OF PETITIONS

In re Application of :
Chih-Sheng Chiang, et. al. :
Application No. 09/031,087 :
Filed: February 26, 1998 :
Attorney Docket No. 054769-2001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on December 29, 2005, to revive the above-identified application.

The application became abandoned for failure to timely reply to the final Office action mailed December 9, 1999. A Notice of Abandonment was mailed on September 21, 2000.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Request for Continued Examination (RCE) along with the \$790 filing fee and an amendment; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

The above application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional¹; therefore, the petition is **GRANTED**.

¹ See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The Office acknowledges receipt of \$1,020 for a three (3) months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats.

1988). Accordingly, since the \$1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2823.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions